

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

WILLIAM GOTTLIEB MANAGEMENT, CO., LLC,

Plaintiff and  
Counterclaim-  
Defendant,

- against -

ALLAN H. CARLIN,

Defendant and  
Counterclaim-  
Plaintiff.

USDC SDNY  
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**20 Civ. 8907 (VM)**

**ORDER**

**VICTOR MARRERO, United States District Judge.**

On January 17, 2025, United States Magistrate Judge Moses issued a thorough Report and Recommendation (the "First R&R"), recommending that the Court grant the motion by plaintiff Gottlieb Management Co., LLC ("WGM") to dismiss the counterclaim of defendant Allan H. Carlin ("Carlin"). (See Dkt. No. 100.) The parties were given until January 31, 2025, to file objections to the First R&R and Carlin was given until February 18, 2025, to file a proposed amended counterclaim and a supporting memorandum of law. (See id. at 10-11.) No objections to the First R&R were filed. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

On February 18, 2025, Carlin filed a motion to amend his counterclaim. (See Dkt. No. 101.) WGM filed an opposition to the proposed amendment, (see Dkt. No. 107), and Carlin filed

a reply. (See Dkt. No. 108.) On May 6, 2025, Magistrate Judge Moses issued a Decision and Order granting Carlin's motion to amend the counterclaim. (See Dkt. No. 109.)


On May 20, 2025, WGM moved to dismiss the amended counterclaim. (See Dkt. No. 115.) On June 10, 2025, Magistrate Judge Moses issued another thorough Report and Recommendation (the "Second R&R"), recommending that the Court deny WGM's motion to dismiss the amended counterclaim because Carlin had cured the deficiencies identified in the First R&R. (See Dkt. No. 123.) This Court adopted the Second R&R in its entirety and accordingly denied WGM's motion to dismiss the amended counterclaim. (See Dkt. No. 130.)

A district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Trustees of Drywall Tapers & Pointers Loc. Union No. 1974 Benefit Funds v. Cite C Corp., No. 17 Civ. 9304, 2019 WL 1745743, at \*1 (S.D.N.Y. Apr. 18, 2019) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed the record and the First R&R for clear error and finds that the First R&R is legally sound and proper. (See

Dkt. No. 100.) However, the Court declines to adopt the First R&R because it was rendered moot after Carlin was granted leave to amend his counterclaim, (see Dkt. No. 109), and WGM's motion to dismiss the amended counterclaim was denied. (See Dkt. No. 130.) Accordingly, WGM's motion to dismiss the counterclaim (Dkt. No. 76) is **DENIED** as moot.

**SO ORDERED.**

Dated: 30 June 2025  
New York, New York

  
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Victor Marrero  
U.S.D.J.